

BEFORE THE TENNESSEE REGULATORY AUTHORITY

NASHVILLE, TENNESSEE

August 21, 2000

IN RE:

**COMPLAINT OF ISDN-NET, INC. AGAINST
BELLSOUTH TELECOMMUNICATIONS, INC.
FOR OFFERING AN ILLEGAL REBATE**

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DOCKET NO. 99-00630

ORDER DENYING COMPLAINT AND MOTION FOR SUSPENSION

This matter came before the Tennessee Regulatory Authority (the "Authority") at a Special Authority Conference held on August 31, 1999, for consideration of ISDN-Net, Inc.'s ("ISDN") Complaint and Motion for Suspension of a promotional offering by BellSouth Telecommunications, Inc. ("BellSouth").

On July 26, 1999, BellSouth filed with the Authority a promotion, which provided that from September 1, 1999 through October 31, 1999, residential customers would receive two coupons redeemable for \$15.00 cash upon ordering the Complete Choice® Plan together with one of the following services: BellSouth.Net internet service, BellSouth Wireless or BellSouth paging service.

ISDN filed its Complaint and Motion for Suspension with the Authority on August 26, 1999, alleging that BellSouth's promotion as submitted to the Authority was illegal pursuant to state law. ISDN contended that BellSouth's promotion should be suspended because the

promotion is discriminatory, anti-competitive and violates Tenn. Code Ann. §§ 65-4-122(a),¹ 65-5-204(a)(2)² and 65-5-208³. In its Complaint, ISDN requested that the Motion for Suspension be considered at a Special Conference scheduled to be held on August 31, 1999 relative to a separate matter.

BellSouth filed a letter with the Authority on August 27, 1999 objecting to ISDN's request to have its Motion for Suspension considered on August 31, 1999. Thereafter, BellSouth filed a revised promotion with the Authority on August 30, 1999 which provided that from September 1, 1999 through October 31, 1999, all residential customers who ordered a Complete Choice® plan would receive a coupon redeemable for \$15.00 cash. In addition, a separate promotion provided that any Complete Choice® plan customers who subscribed to BellSouth.Net internet service, BellSouth Wireless or BellSouth paging service from September 1, 1999 through October 31, 1999 would receive a coupon redeemable for \$15.00 cash.

¹ Tenn. Code Ann. § 65-4-122(a) provides:

If any common carrier or public service company, directly or indirectly, by any special rate, rebate, drawback, or other device, charges, demands, collects, or receives from any person a greater or less compensation for any service within this state than it charges, demands, collects, or receives from any other person for service of a like kind under substantially like circumstances and conditions, and if such common carrier or such other public service company makes any preference between the parties aforementioned such common carrier or other public service company commits unjust discrimination, which is prohibited and declared unlawful.

² Tenn. Code Ann. § 65-5-204(a)(2) provides:

(a) No public utility shall:

(2) Adopt or impose any unjust or unreasonable classification in the making or as the basis of any rate, toll, charge, fare, or schedule for any product or service rendered by it within this state.

³ The relevant portion of Tenn. Code Ann. § 65-5-208(c) states that the Authority shall adopt rules or issue orders to prohibit cross-subsidization, preferences to competitive services or affiliated entities, predatory pricing, price squeezing, price discrimination, tying arrangements or other anti-competitive practices.

After hearing oral argument from the parties at the August 31, 1999 Special Conference, the Authority acted on ISDN's Complaint and Motion for Suspension. The Authority denied the Complaint and Motion for Suspension based upon the following:

1. ISDN's Complaint and Motion for Suspension failed to demonstrate that customers receiving the promotional discount and customers not receiving the discount are similarly situated. Further, the issue of a rebate for subscribing to internet services may involve the internet customer and not the telephone service customer.

2. BellSouth's revised promotion offering a \$15.00 coupon to consumers who order the Complete Choice® plan, a regulated service, would be funded by regulated operations and, depending on the success of the promotion and the revenue generated thereby, would be considered in adjusting the annual price cap pursuant Tenn. Code Ann. § 65-5-209.

3. That portion of BellSouth's promotion offering Complete Choice® plan customers a \$15 coupon for subscribing to BellSouth's internet, paging or wireless services, which are non-regulated services, would be funded by non-regulated operations.

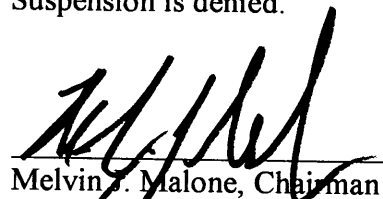
4. While ISDN did not present a sufficiently persuasive basis for suspending BellSouth's revised promotion, the Authority will continue to evaluate complaints alleging discrimination and/or anti-competitiveness in promotions on a case-by-case basis.⁴

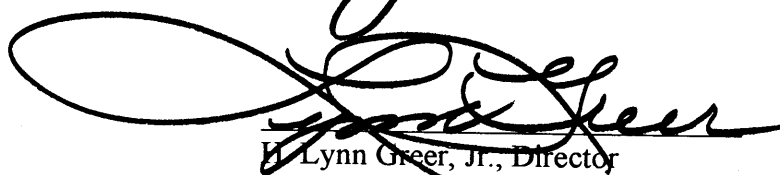
The Authority's decision to deny ISDN's Complaint and Motion for Suspension, thereby permitting BellSouth to go forward with its promotion offerings, does not suggest that the Authority will not continue to review issues of price discrimination, cross-subsidization or tying arrangements involving affiliated entities in connection with promotion offerings.

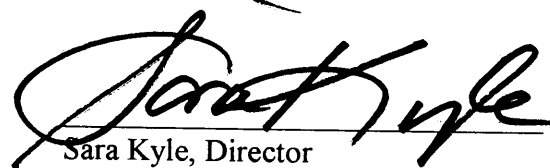
⁴ Although the Authority is cognizant that multiple service offerings made by single providers potentially allow pricing schemes that are more favorable than the sum of comparable service offerings when provided by separate entities, denial of ISDN's Complaint should not suggest that promotions of this type will not continue to receive appropriate scrutiny, or that they reside beyond the jurisdiction of this Authority and state law.

IT IS THEREFORE ORDERED THAT:

ISDN-Net, Inc.'s Complaint and Motion for Suspension is denied.


Melvin J. Malone, Chairman


H. Lynn Greer, Jr., Director


Sara Kyle, Director

ATTEST:


K. David Waddell, Executive Secretary